

E-FILED on 4/12/12

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION

NAZOMI COMMUNICATIONS, INC.,

Plaintiff,

v.

NOKIA CORPORATION, et al.,

Defendants.

No. C-10-04686 RMW

NAZOMI COMMUNICATIONS, INC.,

Plaintiff,

v.

SAMSUNG TELECOMMUNICATIONS  
AMERICA, L.L.C., et al.,

Defendants.

No. C-10-05545 RMW

CASE MANAGEMENT ORDER

On April 11, 2012, the court held a further case management conference to discuss the scheduling of various hearings and motions in the instant actions. After considering the issues raised by all parties, the court orders as follows:

1           1. On August 9, 2012 the court will hold an expedited claim construction hearing and hearing  
2 on defendants' summary judgment motion on the sole issue of whether the asserted claims require  
3 the patented central processing unit or system to have the ability to perform the recited functions  
4 (e.g., "to execute," "to maintain," "to decode") without modification. However, the court will not  
5 otherwise construe the meaning of any particular word contained within the claims (e.g., "execute,"  
6 "maintain," "decode") at the expedited hearing.  
7

8           2. Defendants shall re-file their pending motion for summary judgment based upon their  
9 contention that the accused products cannot perform the recited functions without modification  
10 because the claims-at-issue require that the patented processing unit or system perform the recited  
11 functions without modification and their accused products do not or cannot do so.  
12

13           3. Defendant ARM may not notice its proposed motion for summary judgment concerning a  
14 cap on royalty damages until at least thirty (30) days after the initial, limited claim construction  
15 hearing.  
16

17           4. On November 15, 2012 the court will hold a full claim construction hearing as  
18 contemplated by the local rules on up to ten disputed terms. The hearings on all three patents-in-suit  
19 will be held on the same day, or on two consecutive days if the time necessary for presentation  
20 requires. Any party who believes that its claim interpretation is claim dispositive shall file a  
21 summary judgment motion to be heard contemporaneously with the hearing on the construction of  
22 the disputed terms. This order is without prejudice to a request by any party involved in the '160  
23 patent infringement litigation for a continuance of the hearing date if, despite due diligence, that  
24 party has been unable to obtain necessary third-party discovery. Any such motion for a continuance  
25 must be filed no later than thirty (30) days before the date of the scheduled claim construction  
26 hearing.  
27  
28

5. The scope of discovery is not limited at this time, but the parties are cautioned to focus on issues relevant to the initial, limited claim construction issue and pending motion for summary judgment related thereto as that discovery must be completed by July 18, 2012.<sup>1</sup>

6. The parties are to agree on the structure and method of presentation of a technology tutorial to be held before each claim construction hearing. The court must be advised of the agreed-upon structure and method of presentation at least thirty (30) days before the relevant hearing and, if the parties cannot agree, their respective proposals must be submitted to the court.

In accord with the above, the court adopts the following schedule:

<b>Date</b>	<b>Expedited Claim Construction and Summary Judgment Schedule</b>	<b>Full <i>Markman</i> and Subsequent Proceedings</b>
June 15, 2012	Discovery cut-off for issues relevant to initial, limited claim construction and defendants' summary judgment motion	
June 29, 2012	Defendants' opening claim construction and summary judgment briefs due	
July 13, 2012	Plaintiff's responsive claim construction and summary judgment briefs due	
July 20, 2012	Defendants' reply brief due (summary judgment only)	
August 2, 2012	Technology tutorial	
<b>August 9, 2012</b>	<b>Hearing on expedited claim construction and summary judgment motion</b>	

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<sup>1</sup>The court questions whether any discovery is necessary to assist in deciding whether the patented CPU or system must have the ability to perform the recited functions without modification. However, plaintiff may need some discovery in order to adequately present its response to the motion for summary judgment.

Date	Expedited Claim Construction and Summary Judgment Schedule	Full <i>Markman</i> and Subsequent Proceedings
August 17, 2012		Patent L.R. 4-1 exchange of proposed terms for construction at full <i>Markman</i> hearing
August 31, 2012		Patent L.R. 4-2 exchange of preliminary constructions and supporting evidence for full <i>Markman</i> hearing
September 10, 2012		Earliest date for filing of summary judgment motion on cap for royalty damages
September 14, 2012		Patent L.R. 4-3 joint claim construction and prehearing statement for full <i>Markman</i> hearing
October 5, 2012		Discovery cut-off for claim construction issues
October 12, 2012		Patent L.R. 4-5(a) Plaintiff's opening claim construction brief due; Motion for summary judgment to be filed by any party who believes its claim construction of any term, if adopted, is claim dispositive
October 26, 2012		Patent L.R. 4-5(b) Defendants' responsive construction brief due; Opposition to summary judgment motion, if applicable, to be filed
November 2, 2012		Patent L.R. 4-5(c) Plaintiff's responsive claim construction brief due; Reply to Opposition to summary judgment motion, if applicable, to be filed
November 8, 2012		Technology tutorial
<b>November 15, 2012</b>		<b><i>Markman</i> hearing and hearing on any motion for summary judgment based upon claim dispositive construction</b>

<b>Date</b>	<b>Expedited Claim Construction and Summary Judgment Schedule</b>	<b>Full <i>Markman</i> and Subsequent Proceedings</b>
50 days after <i>Markman</i> order		Patent L.R. 3-7 deadline
60 days after <i>Markman</i> order		Parties with the burden of proof designate expert witnesses (non-claim construction issues) and serve expert reports
90 days after <i>Markman</i> order		(1) Parties designate rebuttal expert witnesses (non-claim construction issues) and serve expert reports; (2) Close of fact discovery
120 days after <i>Markman</i> order		Close of expert discovery
150 days after <i>Markman</i> order		Dispositive motion cut-off (last day to file)
10 days before trial		Final pretrial conference
<b>July 2013 (Estimated Date)</b>		<b>Trial</b>

The above schedule is not intended to suggest whether the issues relevant to the '160 patent will be tried together with the issues related to the '362 and '436 patents or separately. This order is also without prejudice to motions to bifurcate issues or parties or otherwise schedule the order of trial.

DATED: April 16, 2012

  
 RONALD M. WHYTE  
 United States District Judge